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JHB/JB/25174
15th October, 1984

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Date: 12 OCT 1984	
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Dear Jack,

European Patent Application No. 82 304 335.1
Your Ref: 28246 (PM 913B)
Our File: 25174

I enclose the first official action issued in this case, which is due for reply by 13th November. I am sorry that the holiday period has delayed my attention to this item.

The Examiner has suggested amendments to the text to avoid an objection based on the cited French Patent. A copy of his amendment is enclosed. I am not entirely happy with the amendment, although his intentions are doubtless honourable.

You may feel that the Examiner is justified in suggesting that to use a portion of the material discharged from one fermentation to inoculate a subsequent fermentation according to the cited French Patent (which is PM 790/848) which would be obvious and therefore cannot be claimed in the present application. What is not so clear is that the broad concept of the present invention involves the transfer of all the extracts from the first stage to the second stage. Indeed, since some of the extract is withdrawn, not through the line 3 in the Figure, but through the line 23 and subsequently 33 after removal of biomass, it seems that the specification covers the case where some of the extract may not find its way into the second fermenter, at least directly. However, the Examiner's amendment does not follow his own explanation in paragraph 1. Instead, his amendment refers to mixing of the extracts which, it could be argued, would occur in the modification of the French Patent which the Examiner himself regards as obvious.

As I understand it, one of the important features of the present invention is that the fermentation in the second vessel uses the stationary phase of the organism, which appears to be a distinction in itself from the French patent. Is there any obvious reason why one would attempt to use the stationary phase in practising the simple batch fermentation of PM 790/848?

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The Inventor's view on this would be helpful as also his view as to whether the Examiner's proposed amendment of claim 1 is in accordance with the broad aspect of the invention as he understands it. It seems to me that the proposed amendment of claim 1 could be accepted without any great problem, despite or even because of the fact that it does not embody the rather dubious explanation in the first paragraph of the action.

Paragraph 3 of the action properly refers to claim 2, and the Examiner may well be correct. I should like to be certain that original claim 2 (which originated in Germany) was intended to refer to the nett concentration in the second fermenter and not into the further untreated extract added directly to the second fermenter.

If you agree with the Examiner's proposals, in the light of the above discussion and after due consideration by the Inventor, then the application could rapidly proceed to the grant of a patent. I have found some errors in reference numerals on page 8 but will correct these at the time of my reply.

Yours sincerely,


J. H. Bass

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